

The cases appear to have been prosecuted *pari passu*, and were brought to hearing before the Chancellor on the same day, to wit, on the 2d of August, 1841, when decrees were passed dismissing the bill against the defendant, as executor of Rose Matthews, with costs, and in the other case decreeing the payment by him of certain sums of money to the several complainants, and the costs of the suit.

From the report of the Auditor in the case against the defendant, as executor of Rose Matthews, it appeared that he had overpaid the estate the sum of \$920 10, and this report was ratified by the decree which dismissed the bill.

An appeal was taken in due time by the defendant in the other case, and an approved appeal bond filed, but for some unexplained reason, in reference to which we can only speculate, the appeal was not prosecuted, and was abandoned.

No further steps appear to have been taken in the case until the 16th of November last, when petitions were filed praying for writs of *subpoena seire facias* to revive the decree.

Upon the answers to these petitions the question arises, which is now to be considered. These answers allege, that on the 20th of December, 1844, and subsequent to the decree, the complainant, William Matthews, for himself, and as the duly authorized agent and representative of the other parties, stipulated and agreed with the defendant that he should receive a credit on the decree against him for the sum which he had overpaid on account of the estate of Rose Matthews. The evidence relied upon in support of this pretension is to be found in a letter from the complainant, William Matthews, to the defendant, dated the 20th of December, 1844.

It is quite apparent from this letter that the subject of settling these controversies by friendly compromise had been previously discussed between the parties. The writer, in combating the claim of the defendant to be allowed interest on his overpayment, says, in substance, that he does no more than justice sanctions in insisting upon his first proposition, that is, to allow the \$920 10, without interest, the defendant paying the balance of the decree against him, with interest and cost. That his first